

Application No. 09/883,888
Amendment dated November 25, 2003
Reply to Office Action dated November 22, 2002

REMARKS

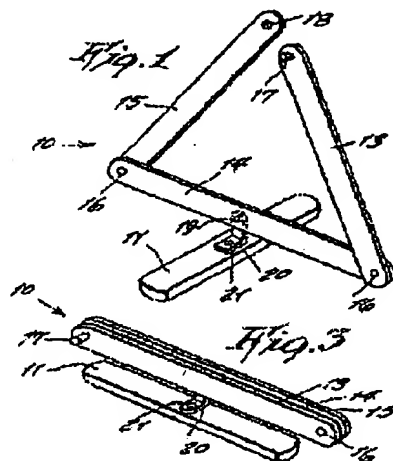
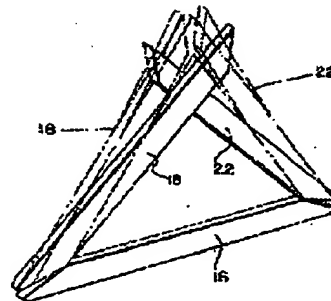
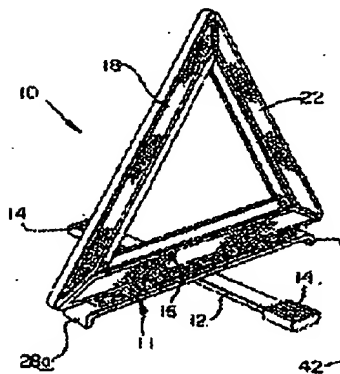
Pursuant to an office action mailed November 20, 2002 the Examiner rejected claims 1 through 8 under 35 U.S.C. 103(a) given Gold (U.S. Patent No. 5,523,926) ("Gold") in view of Jones (U.S. Patent No. 4,303,305) ("Jones"). The drawings were objected to under 37 C.F.R. 1.83(a). Claim 1 was rejected under 35 U.S.C. 112, second paragraph. Claim 7 was rejected for containing an informality. Pursuant to this submission the applicant hereby respectfully further traverses these rejections.

Aside from the informality, the applicant believes that all of these rejections are based upon a misapprehension of the invention itself on the part of the Examiner. In particular, the Examiner faults claim 1 as using the expression "triangle" (noting that a triangle ordinarily comprises a plane figure having three points) to refer instead to a rectangular shaped object. Similarly, the Examiner faults the drawings for not showing a "warning triangle in its fold-up position" and for not depicting a triangle having "three legs." The prior art rejections themselves then seem further based upon the same misunderstanding that gave rise to such rejections.

The applicant does not seek to define "triangle" as a "rectangle." Ignoring for the moment that claim 1 makes no reference to "rectangle" whatsoever, compact or otherwise, in the specification itself the applicant has presented a *folded fold-up* triangle as having a rectangular shape. That is, the fold-up triangle, when collapsed upon itself, assumes a generally rectangular shape. Such folding emergency or cautionary triangles are well known in the art. Two such examples are described in U.S. Patent Nos. 3,822,668 and 3,908,581

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(with representative diagrams from each being presented below for the convenience of the reader).



Such fold-up triangles are typically comprised of three legs that pivot or are otherwise joined or joinable at their ends to one another to permit deployment as a triangle-shaped object. When folded, however, such fold-up triangles typically assume the countenance of a compact rectangle to thereby permit ready and convenient storage.

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Other forms of collapsing emergency/cautionary triangles are also known, of course. For example, U.S. Patent No. 5,551,370 describes a collapsing triangle that breaks down into three V-shaped pieces. It would of course be possible to utilize fold-up triangles such as these as well in the context of the present invention. The point is, the specifics of a given fold-up triangle are not overly important to understanding or practicing the present teachings.

Being well known in the art, and further because the present invention is not overly dependent upon the specific details of any given fold-up triangle (aside from noting that at least one of the legs of the triangle should have at least some reflective material disposed thereon), the applicant elected to comply with the recommendation of the U.S. Patent and Trademark Office to not present such existing and known details in the specification to permit a briefer and overall more focused and clear technical description.

Therefore, the collapsed triangles depicted in the figures of the present application are presented in a schematic representative form that essentially comports with the form factor of many fold-up triangles when in a folded configuration. Such a presentation is more than sufficient to meet the requirements of 37 C.F.R. 1.83(a). The applicant therefore respectfully submits that the specification, including the drawings, is in suitable condition to support allowance.

That said, the applicant now also respectfully observes that neither the Gold reference nor the Jones reference makes any teaching or suggestion with respect to triangles, either of a static form or of the fold-up variety. The applicant therefore respectfully submits that any and all combinations of these two references must ultimately fail to yield a mechanism to secure a "fold-up warning triangle in a folded-up position" as is required by claim 1, let alone a fold-up warning triangle that is "visible to other traffic when said hatch is in its open position." The applicant respectfully submits that claim 1 may be passed to allowance.

Claims 2 through 8 are dependent claims that ultimately depend upon claim 1, which claim has been shown allowable above. In addition, these claims present additional content that, particularly when considered in context with the claim(s) from which they depend, constitutes additional incremental patentable subject matter. An informality in claim 7 as noted earlier by the Examiner has been addressed pursuant to this amendment as well. For all these reasons, the applicant respectfully submits that these claims may be passed to allowance as well.

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The applicant has introduced new claims 10 through 16. Claim 10 is independent and includes limitations directed to "a member that is selectably deployable between at least a first position and a second position, wherein the member includes at least a first foldable warning triangle recess formed therein, such that when the member is deployed in the first position and when a foldable warning triangle is at least partially disposed within the recess, at least a portion of the foldable warning triangle is observable from an exterior position of the motor vehicle." The applicant respectfully submits that such limitations are again not to be found in any combination of the prior art references that have been presented. The remaining claims are ultimately depend upon claim 10, which claim has been shown allowable above. In addition, these claims present additional content that, particularly when considered in context with the claim(s) from which they depend, constitutes additional incremental patentable subject matter. For all these reasons, the applicant respectfully submits that these claims may be passed to allowance as well.

Respectfully submitted,

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